

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

INTERNATIONAL CONSUMER	:	CIVIL ACTION NO. 07-325 (MLC)
PRODUCTS OF NEW JERSEY, INC.,	:	
	:	
Plaintiff,	:	O R D E R
	:	
v.	:	
	:	
COMPLETE CONVENIENCE, LLC,	:	
et al.,	:	
	:	
Defendants.	:	
_____	:	

THE COURT having entered a memorandum opinion and an order on May 22, 2008 ("5-22-08 Memorandum Opinion & Order") that (1) stayed and administratively terminated plaintiff's action against the defendants - Complete Convenience, LLC ("CCLLC"), Alliance CM Corp. ("ACM"), John Scott Glover ("Glover"), Tomco Engineering Co. Ltd. ("TEC"), Noble Brands Ltd. ("NBL"), Ohtwogo Investors, L.P. ("OILP"), and International Trade Group, Inc. ("ITG") - to, inter alia, recover damages for infringement of the patent of a certain product (dkt. entry. no. 33, 2d. Am. Compl.), and (2) directed the parties to proceed before the United States Bankruptcy Court for the Northern District of Texas (dkt. entry nos. 43-44, 5-22-08 Mem. Op. & Order); and plaintiff moving for reconsideration of the 5-22-08 Memorandum Opinion & Order with respect to its claims against all defendants, except CCLLC, which

petitioned for chapter 11 bankruptcy (dkt. entry no. 45), see N.D. Tex. Bankr. Ct. Pet. No. 08-42141; and

THE COURT having found that CCLLC's bankruptcy petition "presented 'unusual circumstances' requiring a stay of the entire action, based on the manner in which the plaintiff asserted its claims against all of the defendants" (5-22-08 Mem. Op., at 2-3), see McCartney v. Integra Nat. Bank N., 106 F.3d 506, 510 (3d Cir. 1997), Roberts v. We Love Country, No. 04-5631, 2005 WL 2094843, at *2-*3 (E.D. Pa. Aug. 29, 2005), because:

(1) CCLC has registered a certain mark that forms the basis for an internet domain name registered by ACM, (2) ACM is an alter ego of, and an investor in, CCLLC, (3) Glover controls both CCLLC and ACM, (4) "CCLLC was created . . . to be a conduit for [ACM] and Glover to funnel money, operate at a loss, utilize the equipment, facilities, utilities and personnel of [ACM], and/or to insulate the assets of [ACM] and Glover from a judgment of infringement," (5) OILP is a member of both CCLLC and NBL, and indebted to ACM in the amount of \$600,000, (6) TEC and NBL manufacture the Product for CCLLC, and (7) ITG imports the Product for CCLLC ([2d Am. Compl.,] at 2-5); and thus it appearing that the claims asserted against all of the defendants – as stated by the plaintiff in the second amended complaint – are hopelessly intertwined

(5-22-08 Mem. Op., at 1-2); and

IT APPEARING that a motion for reconsideration is "an extremely limited procedural vehicle," Tehan v. Disab. Mgmt. Servs., 111 F.Supp.2d 542, 549 (D.N.J. 2000), and is granted

"very sparingly," Yurecko v. Port Auth. Trans-Hudson Corp., 279 F.Supp.2d 606, 608 (D.N.J. 2003); and it appearing that its purpose is to correct manifest errors of law or present newly discovered evidence, Arista Recs. v. Flea World, 356 F.Supp.2d 411, 415 (D.N.J. 2005), or advise of "an intervening change in the law," P. Schoenfeld Asset Mgmt. v. Cendant Corp., 161 F.Supp.2d 349, 352 (D.N.J. 2001); and it appearing that reconsideration is not warranted where (1) the movant merely recapitulates the cases and facts previously analyzed by the court, Arista Recs., 356 F.Supp.2d at 416, Auerbach v. Kantor-Curley Ped. Assocs., No. 01-854, 2004 WL 3037943, at *1 (E.D. Pa. Dec. 30, 2004), see Tehan, 111 F.Supp.2d at 549 ("Motions for reconsideration will not be granted where a party simply asks the court to analyze the same facts and cases it has already considered in reaching its original decision"), or (2) the movant's apparent purpose is to express disagreement with the Court's initial decision, Tehan, 111 F.Supp.2d at 549; and it further appearing that the movant must raise controlling facts or dispositive case law overlooked by the Court in rendering a decision, and concisely specify the suspect aspects of the decision with particularity, Ciba-Geigy Corp. v. Alza Corp., No. 91-5286, 1993 WL 90412, at *1-*2 (D.N.J. Mar. 25, 1993); and

THE COURT having carefully reviewed the arguments in support of the motion for reconsideration;¹ and plaintiff asserting that the stay of the entire action was not warranted because the Court (1) overlooked independent claims brought against Glover and ACM, which predate the creation of CCLLC, (2) misconstrued the significance of the independent relationship between CCLLC and the non-debtor defendants, and (3) is the appropriate forum and should adjudicate the claims against the non-debtor defendants, which are not "core" proceedings of the bankruptcy action (dkt. entry no. 45, Pl. Br., at 14-25); and

IT APPEARING that "unusual circumstances" requiring a stay of the entire action are present when, inter alia, "stay protection is essential to the debtor's efforts of reorganization," In re Mid-Atl. Handling Sys., 304 B.R. 111, 128-29 (Bankr. D.N.J. 2003); and the Court finding that, as the facts have been presented by the plaintiff, it is conceivable the non-debtor defendants may be held accountable for CCLLC's debts, and a judgment against a non-debtor defendant may potentially affect CCLLC's reorganization plan, see e.g., In re S.I. Acq., 817 F.2d

¹ Defendants did not submit a brief opposing plaintiff's motion for reconsideration.

1142, 1150-55 (5th Cir. 1987);² and the Court further finding that the Bankruptcy Court may exercise jurisdiction over the claims against the non-debtor defendants, including the tort and contract claims, because they are, at least, "related to" CCLLC's chapter 11 filing as the outcome of the underlying action could alter CCLLC's rights, liabilities, options, or freedom of action, which may impact the handling and administration of the bankruptcy estate, In re Mid-Atl. Handling Sys., 304 B.R. at 120, In re G-I Holdings, 278 B.R. 376, 384-85 (Bankr. D.N.J. 2002);³ and the Court noting that "[e]xtending the stay to all defendants

² Plaintiff argues that because filings in the Texas bankruptcy matter list Glover and ACM as unsecured creditors of CCLLC, "the [d]efendants are asserting the entities are not related." (Pl. Br., at 18.) Plaintiff also notes that, although the second amended complaint "refers to CCLLC as an 'alter ego,' which [plaintiff] believes it may be for some purposes," the second amended complaint "is not verified." (Id. at 11 n.21.) The Court concludes, however, that ACM's and Glover's status as creditors of CCLLC, which the Court previously recognized (5-22-08 Memo. Op., at 2), does not diminish plaintiff's repeated assertions that the non-debtor defendants control CCLLC, an alter ego. Furthermore, plaintiff's argument against its own pleading is puzzling. See Fed.R.Civ.P. 11(b).

³ "28 U.S.C. § 157 divides bankruptcy court jurisdiction into two distinct categories. In 'core' proceedings the Bankruptcy Court has comprehensive power and can enter appropriate and final judgments. In proceedings which are 'non-core,' but which nonetheless are 'related to' a bankruptcy case under Chapter 11, the bankruptcy court may hear the proceeding. Absent the consent of all parties and referral by district court, however, the bankruptcy court must submit to the district court its proposed findings of fact and conclusions of law." In re G-I Holdings, 278 B.R. at 379 (internal citations omitted).

does not shield any of the defendants from liability," and the plaintiff may return to this Court, after the bankruptcy proceedings have concluded, if unresolved issues remain, Smith v. Dominion Bridge Corp., No. 96-7580, 1999 U.S. Dist. LEXIS 2131, at *13 (E.D. Pa. Mar. 3, 1999), see Roberts, 2005 WL 2094843, at *2; and

THE COURT therefore finding that plaintiff (1) has not established that facts were overlooked by the Court, and (2) is merely asserting that it disagrees with the Court's decision, see Arista Recs., 356 F.Supp.2d at 416, Tehan, 111 F.Supp.2d at 549; and the Court having considered the matter without oral argument pursuant to Federal Rule of Civil Procedure 78(b) and Local Civil Rule 7.1(i); and the Court thus intending to deny the motion; and for good cause appearing;

IT IS THEREFORE on this 23rd day of October, 2008,
ORDERED that plaintiff's motion for reconsideration (dkt. entry
no. 45) is **DENIED**.

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge